B Hindu Women's Rights to Property (Extension to Agricultural Land)/42

1942

File No.

Legal DEPARTMENT

B BRANCH

Subject:—

P-E/E

Government Bill No. XVIII of 1942

The Bombay Hindu Women's Rights to Property (Extension to Agricultural Land) Bill

Bom XVII of 1942

File No. B Hindu Women's Rights to Property (Extension to Agricultural Land)/42

Std. Sectt. Slip 24-B

Bom XVII of 1942

5024

~~Contents.~~

~~CONTENTS.~~

Legal Department File No. B. Hindu Women's Right./42.

Sr. No.	Compilation No.	Subject.	Pages.
		A Bill to extend the operation of the Hindu Women's Rights to Property Act,1937 and the Hindu Women's Right to Property (Amendment) Act, 1938, to agricultural lands in the Province of Bihar.	
1.	U.O. to H.D. No. 3339 dt. 18.4.42.	Draft Bill.	1.
2.	————	Governor's Bill No.XVIII of 1942.	3 - 5.
3.	U.O. to H.D. No.7729 dt. 24.9.42.	Draft Notfn. u/s. 92(1), G. of I. Act. 1935.	7 - 9.
4.	H.I.No.10466 dt.9.10.42.	Governor's Assent to the Bill.	11.
5.	G.N.L.D. No. 8271 dt. 13.10.42.	Publication of Ben.Act No. XVII of 1942	13 - 17.
6.	————	Governor's Bill No.XVIII of 1942.	19 - 23.
7.	————	Ben. Act. No.XVII of 1942.	25 - 36.

SNC/1.5.

Office of the R.L.A.

The necessary draft Bill is sent herewith.

2. The draft Bill falls under item 21 of the Provincial Legislative List. Since it does not relate to any item in the Concurrent Legislative List, it is not necessary to reserve it for the consideration of the Governor-General with reference to section 107(2) of the Government of India Act, 1935.

Sd/-

Remembrancer of Legal Affairs.

U.O. to H.D., No. 3339, dated the 18th April 1942.

SEF/1.5.

Legal Department.

The Bombay Hindu Women's Rights to Property (Extension to Agricultural Land) Bill, 1942, has been forwarded separately through the Home Department to the Secretary to the Governor for obtaining the assent of His Excellency the Governor to the Bill.

2. A draft notification under section 92(1) of the Government of India Act, 1935, for applying the proposed Act to the partially excluded areas in this Province is furnished herewith. The notification should be published in the Bombay Government Gazette on or after the date on which the Act will be published in the Bombay Government Gazette.

Sd/- S.L.C.
24.9.
for Secretary to the Government of Bombay,
Legal Department.

U.R. to H.D., No.7729, dated the 24th September 1942.

SKT/L.S.

NOTIFICATION.

Home Department.

Bombay Castle, 1942.

No. ... In exercise of the powers conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor of Bombay is hereby pleased to direct that the Bombay Hindu Women's Rights to Property (Extension to Agricultural Land) Act, 1942 (Bom. * of 1942) shall apply to the partially excluded areas in the Province of Bombay.

Government of India Act, 1935.

* To be filled in by H.D. before issue.

By order of the Governor of Bombay,

Secretary to Government.

SNT/4.5.

No. 201(61)

Office of the Governor's Secretary,
Government House,
Bombay, 8th September 1942.

From:

J.B.Irwin, Esquire, CIE., DSO.,MC.,ICS.,

Secretary to the Governor of Bombay.

To,

The Secretary to Government,

Legal Department, Bombay.

Subject:- The Bombay Hindu Women's Rights to Property (Extension to Agricultural Land) Bill, 1942.

Sir,

With reference to your letter No.7730, dated the 24th September 1942, I am directed to return herewith the copy of the Bombay Hindu Women's Rights to Property (Extension to Agricultural Land) Bill, 1942, prepared by His Excellency the Governor under paragraph (2) of the Proclamation, dated the 4th November 1939, issued by him under section 93 of the Government of India Act,1935, and to state that under the provisions of the aforesaid paragraph, His Excellency the Governor is pleased to declare that he assents to the Bill in the name of His Majesty.

Your Obedient servant,

Sd/- J.B.Irwin,

Secretary to the Governor of Bombay.

Acts.

Publication of the Bombay Hindu Women's Rights to Property (Extension to Agricultural Land) Act, 1942.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No.8271,
Bombay Castle, 13th October 1942.

Letter to the Secretary to the Governor, No.7730, dated the 24th September 1942.

Letter from the Secretary to the Governor, No.201(61), dated the 8th October 1942.

"With reference to your letter No.7730, dated the 24th September 1942, I am directed to return herewith the copy of the Bombay Hindu Women's Rights to Property (Extension to Agricultural Land) Bill, 1942, prepared by His Excellency the Governor under paragraph (2) of the Proclamation, dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, and to state that under the provisions of the aforesaid paragraph, His Excellency the Governor is pleased to declare that he assents to the Bill in the name of His Majesty".

RESOLUTION:- The law should be published as Bombay Act No.XVII of 1942, in the Bombay Government Gazette dated the 13th October 1942.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Home Department.

By order of the Governor of Bombay,

Sd/- S.L.Chaudhari

T.H.Moos.
for) Secretary to Government.

To,

The Manager, Govt. Central Press, Bombay,
(with a copy of the Act and with a request that 15 gazette copies of the Act may be forwarded to the Legal Department).

The Home Department.
The Oriental Translator to Govt.
The Secretary to the Bombay Legislative Assembly.
The Secretary to the Bombay Legislative Council.
} with a copy of the Act.

* With five extra copies.

45 42 57

Bom. Act No. XVII of 1942—21

~~GOVERNOR'S BILL NO. XVIII OF~~ 1942.

~~DRAFT BILL~~

A Bill to extend the operation of the Hindu Women's Rights to Property Act, 1937, and the Hindu Women's Rights to Property (Amendment) Act, 1938, to agricultural land in the Province of Bombay.

XVIII of 1937. XI of 1938.

WHEREAS the Hindu Women's Rights to Property Act, 1937, and the Hindu Women's Rights to Property (Amendment) Act, 1938, purport to give better rights to women in respect of property in general;

AND WHEREAS many transactions have already taken place in the Province of Bombay on the basis that women had acquired better rights under the said Acts in respect of agricultural land as well as other kinds of property;

AND WHEREAS it has now been established that the said Acts do not operate to give them better rights in respect of agricultural land;

AND WHEREAS in order to validate those transactions as well as to give women in future those better rights and for other purposes, it is expedient to extend the operation of the said Acts to agricultural land with retrospective effect, but with certain savings;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:-

~~IT IS HEREBY ENACTED AS FOLLOWS:-~~

Short title and extent.

1. (*1*) This Act may be called the Bombay Hindu Women's Rights to Property (Extension to Agricultural Land) Act, 1942.

(*2*) It extends to the Province of Bombay.

MIS Bk H 675

Term 'property' in Acts No.XVIII of 1937 and No.XI of 1938 to include agricultural land.

2. The term "property" in the Hindu Women's Rights to Property Act, 1937, and the Hindu Women's Rights to Property (Amendment) Act, 1938, as in force in the Province of Bombay, shall include, and shall be deemed always to have included, agricultural land : XVIII of 1937. XI of 1938.

Provided that where any person who, but for this Act, would have been entitled to any property has been in possession or has made a transfer thereof, his possession till the commencement of this Act shall be deemed to be as lawful, and the transfer made by him shall be deemed to be as valid, as if this Act had not been passed

Provided further that nothing in this Act shall affect any rule of succession prescribed for tenants' rights in agricultural land by any special law for the time being in force.

STATEMENT.

1935,] On a special reference under section 213 of the Government of India Act, ~~xxxxx~~ the Federal Court has decided that the Hindu Women's Rights to Property Act, 1937, and the Amending Act of 1938 do not operate to regulate succession to agricultural land in the Governors' Provinces while they do operate to regulate the devolution by survivorship of property other than agricultural land.

2. The above Acts were intended to give better rights to women in respect of property in general. There have already taken place many transactions in this Province on the basis that women had acquired better rights under the said Acts in respect of agricultural land as well as other kinds of property. In order to validate those transactions as well as to give women in future those better rights, it is expedient to extend the operation of the said Acts to agricultural land in this Province with retrospective effect. This measure is intended to achieve this end.

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.